

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE:  
SMOKINKWR LLC

§  
§  
§  
§

Case No. 21-33989

Debtor in Possession

Chapter 11

**EMERGENCY APPLICATION OF SMOKINKWR LLC TO EMPLOY  
GENERAL COUNSEL**

**(The Law Firm of Thomas F. Jones III)**

**THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.**

**REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.**

**EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.**

**DEBTOR REQUESTS THE COURT HEAR THE MOTION ON JANUARY 20, 2022.**

**TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:**

Smokinkwr LLC ("Smokinkwr") represents:

1. Smokinkwr filed this Chapter 11 bankruptcy case and wishes to employ The Law Firm of Thomas F. Jones III, with Thomas F. Jones III as attorney in charge (collectively the “Law Firm”) as its general counsel because the Law Firm has had considerable experience in matters of this character and believes that the law firm is well qualified to represent it in this case. it is in the best interest of the estate to employ the law firm as general counsel.

2. Smokinkwr proposes that the Law Firm shall perform the professional services listed below:

- (a) To render legal advice with respect to his powers and duties in the continued operation of Smokinkwr’s businesses and management;
- (b) To take all necessary action to protect and preserve the bankruptcy estate, including the prosecution of actions on behalf of Smokinkwr, the defense of any actions commenced against Smokinkwr, negotiations concerning all litigation in which Smokinkwr is involved, and objecting to claims filed against Smokinkwr estate;
- (c) To prepare all necessary schedules, statements, motions, answers, orders, reports and other legal papers in connection with the administration of the estate;
- (d) To assist in preparing for and filing a disclosure statement and plan of reorganization and, if necessary, amendments thereto, at the earliest possible date; and
- (e) To perform any and all other legal services reasonably necessary or otherwise requested by Smokinkwr in connection with its Chapter 11 case and the formation and implementation for a Chapter 11 plan.

3. To the best of Smokinkwr’s knowledge after diligent inquiry, the Law Firm has no disqualifying connection with Smokinkwr, its creditors, any other party in interest, their respective attorneys and accountants, the United States Trustee, or any person employed in the office of the United States Trustee as described in its affidavit, a copy of which is attached hereto as Exhibit “I”. Based upon the Law Firm’s affidavit, the Law Firm is disinterested.

4. The Law Firm represents no interest adverse to Smokinkwr or the estate in the matters upon which it is to be engaged, and its employment is in the best interest of the Estate.

5. Smokinkwr certifies that the Law Firm is not being employed to perform duties required to be performed by him as the debtor in possession. Smokinkwr informed the Law Firm that if it performs duties that are to be performed by the debtor in possession, then the Law Firm may not be compensated by the estate.

6. The Law Firm will charge its usual and customary rates for the work to be performed. Current hourly rates charged are \$335.00 per hour for Thomas F. Jones III when acting as an attorney, and \$120.00 per hour for Thomas F. Jones III acting as a paraprofessional. Expenses are charged at cost and in-house copies are charged at \$.20 per page. The Law Firm understands that it cannot be compensated without notice and opportunity for hearing to creditors and parties in interest or as otherwise provided for in the local rules of bankruptcy procedure or by order of this Court.

7. Prior to the commencement of this case, on December 8, 2021, Smokinkwr paid the Law Firm \$6,000.00 as a retainer which was deposited in the Law Firm IOLTA account. On December 14, 2021, \$3,000.00 of this amount was withdrawn from Smokinkwr's account to pay the Law Firm for bankruptcy related services rendered leaving a balance of \$3,000.00 attributable to Smokinkwr's account in the Law Firm IOLTA.

8. Smokinkwr has agreed to pay the Law Firm as follows: Monthly, the Law Firm shall provide a statement for services rendered and expenses advanced for the previous month. Within five (5) days of receipt of the statement, Smokinkwr shall pay to

the Law Firm, as additional retainer an amount that will pay the outstanding balance, if any, shown on the statement plus an amount sufficient to bring the retainer balance of \$10,000. All funds paid as retainer are to be held in the Law Firm's trust account and to be disbursed in accordance with the Local and Federal Bankruptcy Rules and Bankruptcy Code, after notice and opportunity for hearing. Smokinkwr grants the Law Firm a security interest in all funds it pays to the Law Firm.

9. Brian M. Hubbard, sole member and managing member of Smokinkwr has guaranteed payment of the Law Firm's fees and expenses incurred in this case. Payment of Smokinkwr's obligation to pay the Law Firm fees and expense incurred and approved in this case is guaranteed by Brian M. Hubbard, sole member and managing member of Smokinkwr. Mr. Hubbard owns 100% of Smokinkwr.

WHEREFORE, Smokinkwr LLC prays that this Court enter an order authorizing it to employ the Law Firm as its general counsel, effective December 14, 2021, approve the procedure for payment described herein above, and grant Smokinkwr LLC such other and further relief, in law and in equity, as is just.

Respectfully Submitted,

SMOKINKWR LLC

Signed: /s/ Brian M. Hubbard

Name: Brian M. Hubbard

Dated: January 17, 2022